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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
[illegible]	[illegible]	WILLIAMS	[illegible]

[illegible]

EXAMINER
[illegible]

ART UNIT	PAPER NUMBER
[illegible]	2

DATE MAILED: 10/25/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/531,295	Applicant(s) Williams
	Examiner Blair M. Johnson	Group Art Unit 3634

☐ Responsive to communication(s) filed on _____ .

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-11* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-11* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The tape 18 and the manner in which it raises and lowers the tubes is not adequately disclosed. The tape is said to be guided by channel 20. However, channel 20 only extends the length of the canister. As shown in Figs. 1-4, the tape is not shown, therefore suggesting that the tape is inside the tubes. This is not understood.

2. Claims 2-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the word "means" is preceded by the word "motive" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim 1 recites only one screen. Consequently, references to "screens", plural, lack antecedent basis.

Claims 3-5 recite either a deck or a patio. However, since the preamble of these claims recites only "a structure for erecting a screen", it appears that an attempt is being made to recite

the deck and patio, thereby rendering the scope of the claim uncertain. For purposes of addressing the claims, these recitations of the deck and patio are considered to be purely functional and will not be given patentable weight.

The same holds true for claim 6 regarding the "ground".

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by French patent No. 2,594,480.

The device clearly has some means by which it is operated, thereby satisfying "motive means", especially since this term is ambiguous as discussed above.

The device in '480 is clearly capable of being used with a deck, patio or in the ground.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 9,10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over French '480.

While it is not clear if the screen of '480 is opaque, since most screens are opaque, it would have been obvious to modify '480 whereby his screen is opaque so as to obscure vision therethrough.

Concerning claim 10, such one-way fabrics are well known and using such in the roller shade art would have been obvious so as provide privacy.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Blair M. Johnson

Primary Examiner
Art Unit 3634

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